

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of  
1993 Annual Access Filings )

CC Docket No. 93-193

In the Matter of  
GSF Order Compliance Filings )

GVNW'S RESPONSE TO FCC GSF ORDER

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On April 15, 1997, the FCC released its Memorandum Opinion and Order<sup>1</sup> ("MO&O") in the docket captioned above. Included in this order is the requirement that LECs, which participated in NECA's common line pool and also filed their own traffic sensitive access rates under Section 61.39 of the Commission's Rules in the 1993 access tariff filing respond to certain questions regarding those filings. This response is made on behalf of the issuing carriers in GVNW's Tariff FCC No. 2 which filed under Section 61.39 of the Commission's Rules<sup>2</sup>, as well as Union Telephone Company. This group will be referred to collectively as the GVNW Companies.

<sup>1</sup> In the Matter of 1993 Annual Access Tariff Filings; GSF Order Compliance Filings; In the Matter of 1994 Annual Access Tariff Filings; In the Matter of 1995 Annual Access Tariff Filings; In the Matter of 1996 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2, CC Docket No. 94-65, Memorandum Opinion and Order, FCC 97-139, rel. April 17, 1997.

<sup>2</sup> Leaf River Telephone Company, Cass County Telephone Company of Virginia, IL, Gridley Telephone Company, Citizens Telephone Company of Higginsville, Mo., Ayrshire Farmers Mutual Telephone Company, Dubois Telephone Exchange, Inc., East Ascension Telephone Company (EATEL), Roosevelt County Rural Telephone Cooperative, Sierra Telephone Company, Webb Dickens Telephone Corporation, and El Paso Telephone Company filed tariffs under Section 61.39 of the Commission's rules effective July 1, 1993 and participated in the NECA common line pool during the tariff's effective period.

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## INITIAL TARIFF FILINGS

In filing their access tariffs in 1993, the GVNW Companies calculated their traffic sensitive interstate access rates specifically as required by Section 61.39 of the Commission's Rules which state:

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent twelve month period, with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.

Based on this requirement, the GVNW Companies, depending on their individual filing circumstances, based their rates on cost studies reflecting either 1991 and 1992 cost studies or a 1992 cost study only. These studies incorporated and reflected investments, expenses, separation and access rules, and demand for the cost study period(s). NECA, under the rules of this Commission, filed its Common Line tariff based on projected investments, expenses, separations and access rules, and demand for a 1993/1994 projected period.

If a company files traffic sensitive access rates under Section 61.39 and also participates in the NECA common line tariff, there are always discontinuities between the two filings. Investments, expenses, demand, and separations and access rules

will likely differ between the two filings. Depending on the nature of those differences, they may temporarily provide advantage or disadvantage to the LEC or to its IXC customers.

In the Small Company Order<sup>3</sup> which established these rules, the Commission anticipated that small company earnings might fluctuate from year to year and that excess earnings in one year would be offset by reduced earnings in future years.<sup>4</sup> These periodic fluctuations in demand, expenses, investment, separations rules or access rules do not, however, in the long term, produce excessive or insufficient earnings. Historic rules simply create a delay in realizing the benefit or detriment of these changes. The Commission found that this delay would not systematically bias rates or create significant inequities.<sup>5</sup>

In the Small Company Order, the Commission also addressed proposals to use a historical year with certain prospective adjustments made to the cost study period, i.e., "known and measurable changes." In its order, the Commission specifically rejected such an approach because it would "present most of the same issues as a normal filing with far less assurance that the rates can be considered prima facie reasonable and self-

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<sup>3</sup> See Regulation of Small Telephone Companies, CC Docket 86-467, released June 29, 1987 (FCC 87-186).

<sup>4</sup> Id., para.16.(self correcting nature of Section 61.69 filing).

<sup>5</sup> Id. "While we recognize that some delay will occur between events that arise during the rate period and subsequent rate changes, we do not believe that the delay would systematically bias rates or that the delay is so significant as to warrant revising the rules as suggested."

correcting."<sup>6</sup> The Commission also noted its concern that, "[a]n exchange company might propose to implement only 'known and measurable changes' that benefit it, not those which benefit end users and interexchange carriers."<sup>7</sup>

During the period that the Section 61.39 rules have been in effect, the GVNW Companies, and others, have been filing rates based on the specific requirements of that section reflecting the separations and access rules in the historic periods. During this time, separations rules have been changing, particularly the factors allocating subscriber plant and central office equipment.<sup>8</sup> The rules applicable in the historical cost study period have been used rather than those that would be applicable in a prospective period based on the Commission's specific determination that "known and measurable changes" should not be reflected in the historical period. This process has generally been to the benefit of IXC customers since the allocations of central office equipment were generally increasing during this period due to the separations rules changes. No IXC complained that this was an inappropriate application of the historical rules. The Commission's policies expressed in the Small Company Order cited above have been

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<sup>6</sup> Id. "But a hybrid filing using some historical data and some prospective data would present most of the same issues as a normal filing with far less assurance that the rates can be considered prima facie reasonable and self-correcting."

<sup>7</sup> Id.

<sup>8</sup> For example, Dial Equipment Minute (DEM) weighting had been phasing in for several years. The 1991 cost of service studies were performed using 70% of weighted DEM, while the 1992 studies used 90% and the 1993 studies used 100% weighting.

realized, and should not be undermined by IXC customers that are now proposing to implement "known and measurable changes" to their sole benefit.

#### **SUBSEQUENT TARIFF FILINGS TO CHANGE RATES**

The MO&O specifically requests the GVNW Companies to provide a complete explanation of any rate changes that they made to adjust traffic sensitive rates to reflect the GSF order.<sup>9</sup> The GVNW Companies, in compliance with Section 61.39, made no such changes in their rates filed in 1993 and between then and July 1, 1995, judging that such filings would be in violation of the Commission's Rules under which their tariffs are filed. They did, however, file rates April 1, 1995 in accordance with the Commission's Rules, at which point the self-correcting aspects of the historic filing methodology automatically corrected the GVNW Companies' rates.

#### **PLAN FOR CORRECTIVE ACTION**

The MO&O also requires the GVNW Companies to provide a "plan for any corrective action that may be necessary to eliminate the double recovery of GSF costs." The GVNW Companies maintain that such double recovery has not taken place. By the nature of the historical cost filing rules, traffic sensitive rates are being set based on historical costs of a different time period than the NECA common line rates which are being set based on a prospective period. These different periods recognize different expense, investments, demand, separations rules, and access rules -- exactly

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<sup>9</sup> MO&O, para.50.

what the Commission contemplated when establishing the rules. The self-correcting nature of the historical rules took effect with the 1995 tariff filing.

With the differing time periods between the NECA and historical filings, it is difficult to know how to precisely determine the alleged "double recovery" since all factors in the two time periods are different. In order to provide the Commission with additional information it may want in this regard, the GVNW Companies have undertaken to recalculate their average annual traffic sensitive revenue requirements for the historical periods (1991 and/or 1992) using "known and measurable" changes of access and separations rules applicable during 1993. The attached schedule shows the annual revenue requirement change for the filing periods. One column shows the change just from the GSF access rule change. The second includes the changes related to all access rule and separations changes that took place between the historical periods and 1993. If the Commission is, in this case, going to apply "known and measurable changes" in its rules to the historical periods, all such changes should be reflected. Note that data for several of the GVNW Companies is missing. These companies prepare their cost studies internally and we have as yet not been able to prepare accurate estimates. As the estimates are developed, we will make them available to the Commission and other interested parties.

Finally, if such changes are to be required, the GVNW Companies propose that such changes be made in the form of refunds

to carriers served in the July, 1993 through June, 1995 period.

**SUMMARY**

The Commission directed the GVNW Companies to provide a complete explanation of any rate adjustments made to prevent double recovery of GSF costs.<sup>10</sup> The rate adjustment was filed April 1, 1995 to be effective July 1, 1995 pursuant to Section 61.39 of the Commission's Rules. The self-correcting aspect of Section 61.39 adjusted the access rates of all companies involved using all of the rules in effect during the 1993-1994 test period. The Commission also directed the GVNW Companies to submit a plan for any corrective action that may be necessary.<sup>11</sup> GVNW contends that no plan is necessary because the corrective action envisioned when the Commission established Section 61.39 rules has already occurred.

Respectively submitted,

GVNW Inc./Management

By Trey Judy (se)  
Trey Judy

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<sup>10</sup> MO&O, para.50.

<sup>11</sup> Id.

**GVNW Historic Filers**  
**Impact of GSF & DEM Weighting Phase In**

<u>Company</u>	<u>I.S. T.S.</u> <u>Annual Rev Req.</u>	<u>GSF Chg.</u>	<u>DEM &amp;</u> <u>GSF Chg.</u>
Leaf River	\$ 209,218	\$ (41,994) -20.1%	\$ (31,971) -15.3%
Cass County	\$ 295,928	\$ (60,944) -20.6%	\$ (60,944) -20.6%
Gridley	\$ 230,566	\$ (17,801) -7.7%	\$ (229) -0.1%
Union	\$ 1,416,052	\$ (45,266) -3.2%	\$ (23,228) -1.6%
Citizens	\$ 409,691	\$ (43,757) -10.7%	\$ (15,441) -3.8%
Ayrshire	\$ 134,973	\$ (6,983) -5.2%	\$ (90) -0.1%
Dubois	\$ 578,601	\$ (48,761) -8.4%	\$ (48,761) -8.4%
Eatel			
Roosevelt	\$ 373,461	\$ (40,341) -10.8%	\$ (20,679) -5.5%
Sierra			
Webb Dickens	\$ 115,747	\$ (11,073) -9.6%	\$ 1,343 1.2%
El Paso	\$ 251,281	\$ (29,570) -11.8%	\$ (17,279) -6.9%
Total	\$ 4,015,516	\$ (346,490) -8.6%	\$ (217,279) -5.4%